

Appl. No. 09/725,791  
Amdt. Dated October 6, 2004  
Reply to Office Action of May 7, 2004

### **REMARKS/ARGUMENTS**

Claims 1-9, 11-22, and 24 remain in this application. Claims 10, 23 and 25 have been canceled. Claim 26 has been added.

With this amendment, claims 1, 2, 6-9, 14, 16, 20 and 24 have been amended to more particularly point out and distinctly claim certain aspects of applicant's inventive subject matter.

Claims 1, 3, 5, 11, 16, 18, 19, and 20-25 were rejected under 35 U.S.C. § 102 in view of Evans. Claims 2, 6, 7, 8, 9, 14, 15 and 17 were rejected under 35 U.S.C. § 103(a) in view of the combination of Evans and Hemphill. Claim 10 was rejected under 35 U.S.C. § 103(a) in view of the combination of Evans and Hemphill and Gilbert. Claim 4 was rejected under 35 U.S.C. § 103(a) in view of the combination of Evans and Knaus. Claims 12 and 13 were rejected under 35 U.S.C. § 103(a) in view of the combination of Evans and Sullivan. Applicant submits that the amended claims patentably define the present invention over any combination of the art of record for at least the reasons set forth below.

Regarding claim 1, the Examiner states that Evans discloses an electronic medical records system having a patient demographics component, means for selecting a patient record for display, a medical procedure component, a medical personnel component, means for assigning medical procedure records to the selected patient record, means for assigning personnel records to medical procedure records, a display component for display of selected patient records and corresponding medical procedure and personnel information, an image capture component and means for assigning image data to the selected patient record, as well as means for displaying image data, and a diagnosis component for associating diagnostic information with assigned medical procedures.

Independent claims 1, 14, 16, and 20 have been amended to more particularly define the diagnosis component of the present invention to include diagnosis display, diagnosis selection from a catalog of standard diagnoses, editing of the selected and displayed diagnosis, and resaving the edited diagnosis. The diagnosis entry component of Evans consists merely of allowing the user to select one or more diagnosis codes and displaying the textual diagnosis associated with the selected code(s). Evans does not disclose a diagnosis editing component for changing the textual diagnosis associated with a selected code or for allowing customization of diagnoses in any way beyond an annotation by medical personnel in the patient record itself.

The Examiner cites Gilbert as disclosing a standard diagnosis entry component allowing insertion of a selected, displayed, and edited diagnosis into a catalog of standard diagnoses because it mentions maintenance of databases of diagnosis and treatment information data structures. However, Gilbert, like Evans, teaches the use of standard codes for selection and display of diagnosis information in both its specifications and claims. The present invention discloses diagnosis selection means using criteria other than a standard diagnosis code indicating a medical condition (for example, the selection by affected body part of claims 6 and 21). A physician may also select a previously stored personalized diagnosis for display and editing (as described on page 12, lines 3-7).

Further, neither Evans nor Gilbert discloses the incorporation of diagnostic information from a variety of sources or the use of multiple editing options of the present invention. For the convenience and according to the preference of the physician or medical personnel, the present invention allows editing through word processing, dictation and speech recognition, as well as the insertion of textual data from external sources such as medical reference compact discs or the Internet. In a preferred embodiment (as described on page 6, lines 6-11), the present invention allows a physician to store customized diagnoses in the standard catalog of diagnoses or other storage and associates the information with the physician.

The customized diagnosis report of the present invention is described on page 13, line 28 through page 14, line 2. Unlike Evans which discloses a point of care medical records system and contains no teaching or suggestion for editing or refining diagnoses, the present invention is primarily concerned with building diagnostic reports.

The image capture component of claims 1, 14, 16, and 20 is another element distinguishing the present invention from the Evans patent. Again, the Evans patent is focused on automating medical records and discloses including previously collected physical documents or graphic images (by means of a scanner, for example) in the medical record. In a preferred embodiment (as described on page 11, lines 12-16), the present invention discloses the collection of image data, such as X-rays, using a video graphics card and associated software, as well as the capability to manipulate and view the collected image data.

Independent claims 1, 14, 16 and 20 are thus patentably distinct from both Evans and the combination of Evans and Gilbert. Claims 2-9 and 11-13, which depend from claim 1, also disclose the diagnosis editing component and customized diagnosis reporting. For at least this reason, claims 2-9 and 11-13 also patentably define the present invention over Evans and the combination of Evans and Gilbert. Similarly, applicant submits that claim 15, depending from claim 14, and claim 17, depending from

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claim 16, as well as claims 21, 22, and 24, depending from claim 20, are also patentably distinct from the applied combination of art for at least the reasons discussed above.

New claim 26 similarly includes the image capture component as well as the diagnosis component incorporating diagnosis selection from a catalog of standard diagnoses, editing of the selected diagnosis, and storage of the edited diagnosis. Thus, for at least the arguments set forth above, claim 26 patentably defines the present invention over any combination of the art of record.

Claims 2, 6-9, 14, 15, and 17 were rejected under 35 U.S.C. § 103(a) in view of the combination of Evans and Hemphill. The Examiner indicates that Evans uses a data manager to incorporate audio data from a physician's dictation into a patient's record, and Hemphill teaches the use of speech recognition to translate voice data into textual data.

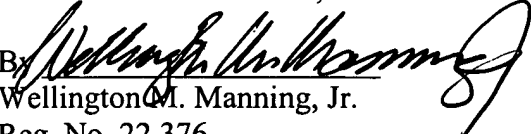
The present application recognizes that speech recognition software, as disclosed in Hemphill is known in the art. However, there is no suggestion or teaching in Hemphill for using such software in either the medical records application of Evans or the diagnosis reporting system of the present invention. Evans teaches away from the use of speech recognition software by incorporating a physician's dictation into a patient record as audio data rather than textual data. Further, as mentioned above, the speech recognition component of the present invention is used by the dictating physician to build a diagnosis report which, although it can be associated with a patient record, can also be saved as part of a catalog of standard diagnoses or as the physician's personalized diagnosis.

Claims 2, 14, and 17 are thus patentably distinct from the combination of Evans and Hemphill. Similarly, applicant submits that claim 9, depending from claim 2, and claim 15, depending from claim 14, are also patentably distinct from the applied combination of art for at least the reasons discussed above. With the present invention, claims 6-8 now depend from amended claim 1, as mentioned above.

Applicant respectfully submits that all of the pending claims are allowable over the art of record and favorable action thereon is respectfully requested. The Examiner is encouraged to call the undersigned to resolve any remaining issues.

Respectfully submitted,

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